

Supplemental Report of the 2001 Budget Act
Special Education Program Monitoring Reviews-Biannual Progress Reports
December 15, 2001

Executive Summary

It is the intent of the Legislature in the Supplemental Report Language (SRL) of the 2001 Budget Act that the California Department of Education (CDE) report biannually on the status of outcomes of new and ongoing special education program monitoring reviews of local education agencies, including verification reviews, facilitated reviews, federal Corrective Action Plan (Fed-CAP) district reviews, and any other monitoring reviews.

CDE shall report biannually (December 15th and March 15th) to the chair and vice chairs of the appropriate legislative budget and policy committees, the Joint Legislative Budget Committee, the Department of Finance (DOF), and the Governor on the progress of implementation of the monitoring reviews and their results, including the number of noncompliant findings identified and corrective actions developed. For ongoing reviews, these reports shall also identify the number and type of outstanding corrective actions, timetables for correction, and any sanctions issued. As part of these biannual reports, CDE shall describe generally the number and types of noncompliant findings identified for monitoring reviews conducted. The format of these biannual reports shall be developed by the Legislative Analyst in conjunction with DOF and CDE.

CDE's Compliance Monitoring System or Quality Assurance Process (QAP) was described in the September 1, 2001 SRL report, *Description of the Existing System*. The QAP's four components, Local Plan, Coordinated Compliance Review Self-Review, Compliance Complaints, and Focused Monitoring (which includes Verification Reviews, Facilitated School Districts, California Special Education Management Information System [CASEMIS], and Nonpublic Schools and Agencies [NPS/NPA] monitoring) work together in an integrated way to provide useful information and evidence of compliance. Corrective actions are required for any findings of noncompliance in each of the four components. A fuller description of the current status of all QAP components, as well as, a three-year monitoring plan are included in CDE's December 1, 2001 report, "*Special Education Program Monitoring System Plan*."

This report provides a brief narrative description regarding: (1) the general number and types of noncompliant findings within each QAP component; and (2) correction and enforcement actions. All data from the 1999-00 and 2000-01 reviews is not yet available, and will be available for the March 15, 2002 report. In addition, Appendix 1 provides general information regarding the most frequent noncompliant findings at the student and district (systemic) level, and Appendix 2 provides a six-month sample of enforcement activities ordered by CDE through compliance complaints.

Numbers and Types of Noncompliance Findings by Quality Assurance Program Component

1. Local Plans

On October 10, 2001 the State Board of Education approved an extension for all special education local plans until December 31, 2002. This extension was approved to allow for the alignment of the special education local plans to the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 and following) and implementing regulations (34 C.F.R. Parts 300 and 303). Current approved Local Plans are to remain in effect until the December 31, 2002 deadline.

2. Coordinated Compliance Review Self-Review

CDE is currently analyzing data from the self-reviews submitted on June 30, 2001. Thus far, based on 45 district self-reviews, districts report 6,340 findings of noncompliance. If projected to the remaining 232 districts that submitted self-reviews, CDE estimates that this QAP component will identify a total of 32,686 noncompliant findings.

3. Compliance Complaints

A total of **2,819** compliance complaints were filed between, July 1, 1998 through June 30, 2001. Of these complaints, **6,315** allegations of noncompliance were investigated with **2,262** findings of noncompliance resulting in **4,762** corrective actions. *Appendix 2* includes a six-month sample of the *enforcement actions* that CDE took as a result of compliance complaint investigations.

4. Focused Monitoring

Verification Reviews: In 1999-2000, CDE conducted **54** Verification Reviews (VRs) of local school districts. These VRs included all Facilitated (Collaborative) School Districts and FedCAP districts named by the U.S. Department of Education, Office of Special Education Programs (OSEP). Based on the 1999-2000 VRs, CDE found **15,421** student level findings of noncompliance and **985** systemic findings of noncompliance. *Appendix 1* describes the most frequent noncompliant items identified at the student and systemic level from the 1999-2000 Verification Reviews.

In 2000-01, CDE conducted 55 VRs of local school districts and followed up on the 54 districts that received a VR in 1999-2000. Projected data from 2000-01 VRs indicates that CDE will find 16,370 student level findings of noncompliance and 806 systemic findings of noncompliance.

The total number of noncompliant findings for the combined **109** Verification Reviews conducted in 1999-2000 and 2000-01 indicate approximately **31,791** student level findings of noncompliance and **1,791** systemic level findings of noncompliance.

Federal Corrective Action Plan (Fed CAP) districts: Though CDE is currently under special conditions to receive federal special education funds in 2001-02, it has not been under a U.S. Department of Education, Office of Special Education Programs (OSEP), Corrective Action Plan since 1999-2000. The term "**FedCAP**" (**Federal Corrective Action Plan**) refers to the districts OSEP reviewed in their 1992, 1996 and 1999 monitoring visits. The following districts were identified in the corrective action plans required by OSEP as a result of their monitoring: San Francisco Unified School District, Antioch Unified School District, Fairfield Suisun Unified School District, California Youth Authority-Ventura School, Los Angeles Unified School District, Holtville Unified School District, San Pasqual Unified School District, San Diego City Unified School District, Alvord Unified School District, Enterprise Unified School District, Seiad Elementary School District, Napa State Hospital, Camarillo State Hospital, Los Angeles County Court Schools, Capistrano Unified School District, Saddleback Valley Unified School District, Long Beach Unified School District, Mount Diablo Unified School District.

In 1999-2000, as required under the February 25, 2000 CDE-OSEP agreed upon Corrective Action Plan, CDE conducted Verification Reviews of all the above school districts excluding Seiad Elementary School district.

Facilitated School Districts: Beginning in 1999-2000, Facilitated School Districts (also called Collaborative) were selected based on their low Key Performance Indicators (KPI) for a three-year extensive systems change approach to improve student outcomes and ensure compliance. All 19 selected school districts received a Verification Review in 1999-2000 and subsequent follow up review in 2000-01. These districts are *focused monitoring districts* in that CDE monitors these districts for KPI improvement as well as compliance correction as a result of their 1999-2000 VR. Fifteen districts receive grant funds and extensive technical assistance, and four districts do not receive grants and are monitored for data only, including compliance correction.

The Facilitated School Districts that currently receive funding are: Alum Rock USD, Antelope Valley UHSD, Brawley High School District, Centinella Unified School district, Greenfield Elementary School District, Hayward Unified School district, Los Angeles Unified School District "D", Mendota Unified School District, Modesto City Elementary School District, North Sacramento School District, Palo Verde Unified School District, Perris Union High School District, San Ysidro Elementary School District, W.Contra Costa Unified School District, William S. Hart Unified School District. The Facilitated School Districts that do not receive funding are: San Diego City Unified School District, San Francisco Unified School District, Pittsburg Unified School District, and Redlands Unified School District.

California Special Education Management Information System (CASEMIS): The June 30, 2000 CASEMIS data from 1,017 school districts indicated that **27,015** (or 4.5%) students with disabilities had overdue three-year reevaluations and **74,068** (or 12.4%) had overdue annual Individualized Education Program (IEP) reviews. The December 1, 2000 CASEMIS data from 1,020 school districts indicated a significant decrease to **14,730** (or 2.4%) students with disabilities having overdue three-year reevaluations and **30,367** (or 5%) having overdue annual IEP reviews. CDE continues to monitor all overdue three-year reevaluations and IEP annual reviews through CASEMIS biannually (June 30 and December 1) to ensure correction of all noncompliant findings.

Nonpublic Schools and Agencies: In 1999-2000, CDE found **714** systemic findings of noncompliance. In 2000-01, CDE found **295** systemic findings of noncompliance. The most common areas of noncompliance for NPSs include the lack of qualified staff, and not adhering to the master contract and individual services agreements. Many school districts that contract with NPSs fail to: develop IEPs, provide triennial assessments, and provide vision and hearing screening assessments for the students placed in NPSs. When this occurs, NPSs are not able to meet the assessed needs of these students.

California Youth Authority: Pursuant to SB 505 (Ch 536/2001), and described in the Interagency Agreement between CDE and the California Youth Authority, in 2001-02, Verification Reviews will be conducted of four selected CYA sites, and the remaining sites will conduct a CCR self-review. Data is not yet available from these Verification Reviews and CCR Self-Reviews.

Corrective Actions and Enforcement/Sanctions

As of this December 15, 2001 report, all data on all enforcement actions is not available and CDE anticipates data will be available for the March 15, 2002 biannual report. To provide an illustration, however, of some of the types of enforcement activities that have been taken, two significant actions conducted by CDE during 2000-01 are described below. In addition, *Appendix 2* displays a six-month sample of enforcement activities that have been taken stemming from compliance complaint investigations.

1. Sierra-Plumas Joint Unified School District (Compliance Case #S-0136-99/00)

Background

The Sierra Plumas Joint Unified School District operated a charter school (Sierra Summit Academy) with an enrollment of approximately 2,000 students who resided throughout California. The charter was administered by a private agency ("1 to 1") on behalf of the district. The charter school provided instruction through an independent study format. Until the complaint was filed, the charter reported no special education students among the total enrollment of 2,000. After the complaint was filed, the district concurred that some students with active IEPs were not receiving special education services but contended that their needs were being appropriately met through the charter school program. CDE's investigation found the district to be out of compliance, failing to ensure a continuum of program options pursuant to E.C. Section 56360.

Required Corrective Actions

1. District in conjunction with Special Education Local Plan Area (SELPA) must review all student records to determine existence/content of Individual Education Plans (IEPs).
2. IEP team meeting will be held to review and revise as necessary IEPs and determine need for compensatory education.
3. District will provide evidence that they are fully implementing the IEP of each student in the charter.
4. District will provide personnel with follow-up in-service.
5. District, in conjunction with SELPA, will develop and implement a system to monitor compliance.
6. Within 90 days of the receipt of the compliance report, the District shall submit evidence that the governing board of the public educational agency has addressed all issues of noncompliance outlined in the report at a regularly scheduled public hearing, pursuant to Education Code 56045.

Follow-Up Monitoring Actions

11/05/99 – 3/31/00 – Phone calls, written correspondence, and meetings to provide guidance regarding compliance with required corrective actions.

2/16/00 – District submitted a copy of the board minutes as required in Corrective Actions.

5/30/00 – 10/10/00 – Three onsite visits, telephone conversations with superintendent, and written correspondence to superintendent reiterating the actions necessary to meet required corrective actions.

11/10/00 – 11/30/01 – Meetings held with CDE attorneys, the Director of Fiscal Services, the Director of Special Education, Manager of Complaints Management and Mediation, and Focused Monitoring Technical Assistance consultants to discuss next steps. Meetings were also held with the District and county lawyers, the SELPA Director, the Program Specialist, District and County Superintendents, and CDE staff (attorneys, Fiscal Office, and Special Education Director) to discuss current status and necessary actions that must occur to prevent sanctions.

7/24/01 – The Governing Board of the Sierra-Plumas Joint Union School District adopted Resolution No. 01-002. Through this action the charter for Sierra Summit Academy was revoked.

9/12/01 – Report from CDE Fiscal Division released, disclosing that Sierra Summit Academy failed to comply with the Education Code with respect to the following: Private school conversion, sectarian curriculum, teacher credentialing, minimum daily instructional time, annual instructional minutes, Independent study, improperly reported attendance, and supervisorial fees.

9/27 – 9/28/01 - Onsite visit by CDE staff (manager CMM, manager FMTA, and FMTA regional consultant). A strategic plan was developed to complete required corrective actions.

12/06/01- A meeting was held between CDE and the District to review documentation to support the required Corrective Actions.

Current Status

It is anticipated that all Corrective Actions will be completed by January of 2002.

2. San Diego City Unified School District (Compliance Case #S-0221-00/01)

Background

A CDE investigation of compliance complaint S-0221-00/01 found thirteen noncompliant practices related to failure to provide services identified in the Individual Education Plans (IEP) of sixty students with disabilities. CDE ordered corrective actions to be carried out through a committee structure. The development of this structure was to ensure site and parent representation and participation at all levels. Corrective action timelines were provided that extended over a span of a year to allow the district to correct operational noncompliant issues. Individual student noncompliant findings required an immediate resolution with compensatory services ordered for specific students.

Follow Up Monitoring-Actions

On May 1, 2001 CDE monitored randomly selected sites to review progress the district achieved in correcting the noncompliant items. CDE informed the district on June 8, 2001 that the noncompliant findings were not resolved.

On June 18, 2001, the district stopped working on the corrective actions and ordered all committees to cease meeting and all district-wide activities related to correction of the systemic corrective actions to terminate as of that date.

As a result of the district's refusal to comply with corrective actions, CDE filed *A Petition For Writ of Mandate* in the Superior Court of San Diego County against the district on July 17, 2001. A petition for writ of mandate requests a court to compel a district to comply with corrective actions. Shortly after the petition for writ of mandate was filed, the district responded with a counter Writ of Mandate.

Current Status

CDE legal staff has prepared a *Petitioner's Points and Authorities in Support of Motion for Peremptory Writ of Mandate* documents along with a Declaration Statement from the lead investigator in this compliance case. This legal activity clarifies the reasons for filing a Writ of Mandate against the district including the submission of evidence supporting the writ. Legal staff will file this *Petitioner's Points and Authorities in Support of Motion for Peremptory Writ of Mandate* against the district in the Superior Court of San Diego County. A court hearing is scheduled for May 2002.

Appendix 1

Most Frequent Items Found Noncompliant

The 1999-2000 Verification Review data indicates the following most frequent noncompliant items identified at the student and systemic level.

Most Frequent Noncompliant Items Student Level	Most Frequent Noncompliant Items Systemic Level
Failure to implement the IEP	Failure to implement the IEP
Missed Timelines	Missed Timelines
Triennial Reevaluation	Triennial Reevaluation
Annual IEP	Annual IEP
IEP within 50 days of parental consent	IEP within 50 days of parental consent
Missing or Inadequate IEP Contents	Missing or Inadequate IEP Contents
Goals and benchmarks that will enable the child to be involved in and progress in the general education curriculum	
Present levels of performance including how the disability affects the child's involvement and progress in the general curriculum	
How parents will be informed of student progress	How parents will be informed of student progress
Student participation in statewide achievement tests	Student participation in statewide achievement tests
Program modifications and supports for school personnel	Program modifications and supports for school personnel
Projected dates for initiating services	
IEP Process	IEP Process
Failure to consider assistive technology	
IEP Team	IEP Team
No general education teacher (preschool and school age)	No general education teacher (preschool and school age)

Appendix 2

Enforcement Actions-Compliance Complaints (6 month sample) June 8, 2001-November 15, 2001

District	Final Rept Sent Out	Case #	Compensatory Education	Reimbursement	Local-School Board Hearing	Civil Action	Fiscal Withholding	Outcome
San Diego City Unified	6/8/01	S-0334-00/01			X			Closed
LAUSD	6/12/01	S-0827-00/01			X			Closed
LAUSD	6/12/01	S-0842-00/01			X			Closed
Oceanside Unified	6/12/01	S-0833-00/01			X			Closed
Long Beach USD	6/19/01	S-0641-00/01			X			Closed
Long Beach USD	6/19/01	S-0646-00/01			X			Closed
Manhattan Beach Unified	6/19/01	S-0561-00/01			X			Closed
LAUSD	6/22/01	S-0713-00/01			X			Closed
LAUSD	6/26/01	S-1007-00/01	X					Closed
Oceanside Unified	6/26/01	S-0623-00/01			X			Closed
LAUSD	7/10/01	S-0980-00/01			X			Closed
Chula Vista Unified	7/16/01	S-0590-00/01			X			Closed
Long Beach USD	7/16/01	S-0800-00/01			X			Open
Ravenswood City Elementary SD	7/19/01	S-1153-00/01			X			Open-awaiting evidence
Ravenswood City Elementary SD	7/25/01	S-1194-00/01			X			Open-awaiting evidence
Ravenswood City Elementary SD	7/25/01	S-1182-00/01			X			Open-awaiting evidence
Ravenswood City Elementary SD	7/26/01	S-1195-00/01			X			Open-awaiting evidence
Long Beach USD	8/1/01	S-1157-00/01	X					Closed
San..Francisco USD	8/1/01	I-1102-00/01	X					Due 10/5/01 CDE in review of evidence
Poway USD	8/2/01	S-1127-00/01	X					Closed
Cajon Valley Union Elementary	8/3/01	S-1216-00/01	X					Open-pending evidence
Capistrano Unified	8/6/01	S-0072-00/01			X			Closed
Ravenswood City Elementary SD	8/7/01	S-1191-00/01	X		X			Open-Not due until 4/1/02
LAUSD	8/8/01	S-0022-01/02		X				Open
LAUSD	8/8/01	S-0025-01/02	X					Open
Fullerton Joint Union High SD	8/9/01	S-1217-00/01	X					Closed
Hermosa Beach City Elementary SD	8/13/01	S-1220-00/01	X					Closed
LAUSD	8/13/01	S-1187-00/01	X					Closed
LAUSD	8/15/01	S-0090-01/02	X					Closed

District	Final Rept Sent Out	Case #	Compensatory Education	Reimbursement	Local-School Board Hearing	Civil Action	Fiscal Withholding	Outcome
Konocti USD	8/20/01	S-1211-00/01	X		X			Evidence received, in CDE legal review & decision re: case closure.
LAUSD	8/20/01	S-0066-01/02	X					Closed
Norwalk-La Mirada USD	8/20/01	S-1210-00/01	X					Closed
Sacramento USD	8/21/01	S-0057-01/02	X					Open, awaiting evidence
San Juan USD	8/24/01	S-1219-00/01	X					Closed
Upper Lake Union Elementary SD	8/24/01	S-1215-00/01	X					Open, due 6/10/02
San Diego City USD	8/29/01	S-1223-00/01	X					Open -CDE in review of evidence
San Dieguito Union High SD	9/5/01	S-0011-01/02	X					Closed
LAUSD	9/6/01	S-0125-01/02		X				Open
LAUSD	9/6/01	S-0125-00/01	X	X				Open
Calaveras USD	9/10/01	S-0122-01/02	X					Local Resolution, CDE awaiting additional evidence
Jefferson Union High SD	9/10/01	S-0032-01/02	X					Open, due 11/16/01
Newhall Elementary SD	9/10/01	S-0076-01/02	X					Closed
San Diego City USD	9/11/01	S-0034-01/02	X					Open, pending new evidence as of 11/29
Temecula Valley USD	9/11/01	S-0019-01/02	X					Open, due 12/15/01
LAUSD	9/13/01	S-0131-01/02	X					Open
LAUSD	9/13/01	S-0135-01/02	X					Open
El Monte City Elementary SD	9/14/01	S-0142-01/02	X					Open
San Dieguito Union High SD	9/17/01	S-0053-01/02	X					Open, due 1/15
Temecula Valley USD	9/17/01	S-0041-01/02	X					Open, pending evidence
Tustin USD	9/18/01	S-0049-01/02	X					Open, due 6/2/02
LAUSD	9/25/01	S-1187-00/01			X			Closed
LAUSD	9/25/01	S-0137-01/02	X					Closed
Newhall Elementary SD	9/25/01	S-0077-01/02	X					Closed
East Side Union High SD	9/26/01	S-0112-01/02	X					Open, due 12/3
San Diego City USD	9/26/01	S-0138-01/02	X					Closed
Valley Center-Pauma USD	9/27/01	S-0096-01/02	X					Open, due 11/30/01
Charter Oak USD	10/12/01	S-0111-01/02	X					Open
Simi Valley USD	10/15/01	S-0146-01/02	X					Open
Tustin USD	10/18/01	S-0123-01/02	X					Open, due 1/26/02
San Diego City USD	10/24/01	S-0185-01/02	X					Open, due 1/3/02
LAUSD	10/25/01	S-0189-01/02	X					Open
Alhambra City Elementary	10/26/01	S-0279-01/02	X					CDE in review of evidence
LAUSD	10/30/01	S-0184-01/02	X					Open

District	Final Rept Sent Out	Case #	Compensatory Education	Reimbursement	Local-School Board Hearing	Civil Action	Fiscal Withholding	Outcome
LAUSD	10/30/01	S-0234-01/02	X					Open
Redlands USD	10/31/01	S-0167-01/02	X					Open, due 2002
Redlands USD	10/31/01	S-0169-01/02	X					Open, due 2002
LAUSD	11/9/01	S-0242-01/02		X				Open

Description of Enforcement Actions

Compensatory Education: requires providing services to students that should have been provided.

Reimbursement: requires reimbursing parents for the actual out-of-pocket expenditures related to the provision of special education and related services that the local educational agency should have funded.

Local School Board Hearing: requires the noncompliance issue to be addressed before a regularly scheduled public meeting of the local governing board.

Civil Action: involves a writ of mandate filed by CDE's legal office.

Fiscal Withholding: involves withholding state and federal funding.